

Amendments to the Drawings

The attached sheet of drawing includes changes to Figure 8. Hidden lines have been added to that section in which they were inadvertently omitted. These hidden lines are present in the provisional application in Figure 7.

Attachment: Replacement sheet

Annotated sheet showing changes

REMARKS/ARGUMENTS

In the specification, new paragraphs [0039.1] and [0039.2] have been deleted. Applicant does not consider new paragraph [0039.1] to be new matter but will delete the paragraph in response to the examiners requirement. Applicant reserves the right to petition, in a timely manner, the Commissioner for the inclusion of this paragraph into the disclosure. Paragraph [0010] has not been deleted in that it appears in ~~both the non-provisional and provisional applications~~ ^{11/04 provisional application}. In the event that the examiner considers paragraph [0010.1] as being new matter, applicant would respectfully respond that this is not the case in that paragraph [0010.1] only refers to the prior art Haig patent.

Claims 1 – 21 have been cancelled.

Claim 22, 27 and 30 are currently amended, claims 23-26, 28,29 and 31 were previously presented, claims 32 – 47 are new.

Regarding insufficiency of 1.132 declaration filed May 28, 2004

Applicant regrets that examiner was not impressed by the declaration sufficient to overcome any claim rejection. Applicant would like to note that the journeymen butchers described in the declaration were not asked if they had seen the subject of the photograph before, rather they were asked to identify the subject. In fact, they were challenged by their employer to do so. Neither could. Applicant still considers the declaration compelling and respectfully requests reconsideration of the declaration by the examiner.

Regarding the Section 132 new matter rejections

Paragraphs [0039.2] and [0039.1] have been deleted. Applicant has not deleted paragraph [0010] in that it appears in ~~both the provisional and~~ non provisional applications.

Paragraph [0010.1] only pertains to U.S. patent 6,582,741 issued to Haig which, for the record, applicant included as part of an IDS prior to any office action relating to the above application. Applicant was only too pleased to include a prior art patent relating to an unappreciated problem in the art of butchery which applicant believes to have solved, a solution that the Haig patent does not disclose, nor suggest. Applicant also and preemptively considers new paragraphs [0010.2] and [0012.1] as having no new matter in that these paragraphs are part of the background section of the disclosure and relate only to the prior art.

Regarding lack of possession and written description required by 35 USC § 112 first paragraph within claims 24 and 30-31.

The corresponding weights of muscle tissues taken from primal and sub primal meat cuts are well known and documented in the art of butchery. Typically the top loin taken from a short loin will have a weight twice that of the tenderloin taken therefrom. The tenderloin would have a weight 50 percent of the respective top loin. In applicants disclosure there is taught a process for inserting a tenderloin into the respective top loin thereof both having been removed from a single short loin half, and the asserted claimed product resulting therefrom. Applicant reduced the invention to practice prior to filing.

With regard to the language “means for highlighting” lacking written description, applicant respectfully disagrees. Applicant’s disclosure teaches a method of coaxially disposing green leafy vegetable material between two coaxially combined, often, red meat elongates and the product resulting therefrom. It should be abundantly clear to the public and those having

ordinary skill in the art, those teachings in the disclosure which correspond to this limitation and that the applicant was in possession of such teachings.

Regarding 35 U.S.C. § 112 second paragraph toward claims 22-31 as being indefinite or failing to particularly point out the subject matter contained with the claims.

The language “significant proportion of protein” was used in the above claims to distance the claimed subject matter of the above application with that of ancient, almost extinct, technique of larding in which pork fat back elongates are threaded throughout the longitudinal central mass of large lean roasts. It should be noted that these fat strips would not ordinarily be considered “filling” in that most diners would consider the term “filling” with regard to food items to be a prized constituent and not as with larding, something to increase the fat content of an ordinarily lean meat item.

With regard to paragraph 9 of the above office action stating “Claims 24 and 31 recite ‘means for highlighting’. It is not clear what component this refers to.” The antecedent recitation “boundary” is present in each claim in which “means for highlighting said boundary” occurs and would thereby present definiteness to the claim and particularity over the prior art in independent claim 31. The presence of a green circle within a meat slice would clearly convey a means for highlighting the boundary. Applicant does not believe that the public would have any difficulty distinguishing that which highlights the boundary between the filling and the outer tubular preform when the claims are viewed in light of the specification.

Regarding 35USC § 102 rejections

Claims 22-23 and 30-31 have been rejected as being anticipated by U.S. 3,615,692 Issued to Lovell. The Lovell disclosure teaches a method for the removal of the leg and thigh bones of a poultry leg quarter and the stuffing of the cavity produced thereby with “viscous material”. It is neither described nor suggested within the Lovell disclosure that an animal tissue elongate be

substituted for the viscous stuffing. And while the boundary disposed between the leg tissues and the stuffing would be discernable it would not perform the function of the presently or previously asserted highlighting means plus function claim element in and of itself. It is applicants understanding that each and every element of the asserted claims must be present in the single prior art disclosure in order to anticipate the asserted claim. Applicant does not find anticipation with regard to the Lovell disclosure as it relates to applicants asserted claims.

Claims 22, 24 and 31 have been rejected as being anticipated by U.S. 6,599,545 issued to Holbrook. Again applicant considers this to be a non analogous citation. Applicant is unable to ascertain each and every feature of the claimed invention within the Holbrook disclosure, either expressly or inherently. The Holbrook disclosure does not teach, not suggest to a person having ordinary skill in the art of butchery, a method toward creating a tubular perform from an animal tissue elongate.

Claim 31 has been rejected as being anticipated by U.S. 6,582,741 issued to Haig. The Haig disclosure neither describes nor suggests that an animal tissue elongate be disposed within the incised pork top loin.

Regarding the 35 USC § 103 rejections

Claims 22, 24, and 30 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Haig in view of Holbrook. Applicant maintains that these disclosures are non analogous. Further, applicant believes these two disclosures to be mutually exclusive. The Haig disclosure, in lines 21 through 24, teaches away from the coring method of creating a cavity within a pork loin elongate. Notwithstanding this, applicant is unaware of any device which could perform the task of "coring" an animal tissue elongate in either the culinary, butcher or surgical arts. The Holbrook disclosure inherently "teaches away" from the incision method toward providing a cavity within a "shell type" food stuff, as can be found in the examiner cited Bemis patent, U.S. 1,807189. Applicant is unable to ascertain any motivation contained within these citations for a

person skilled in the art of butchery to combine these disclosures in order to render obvious applicants asserted claims absent applicant's disclosure. Applicant would like to point out that column 2 lines 28 through 32 of the Haig disclosure contains language that a "loaf of bread" may be substituted for the pork loin in producing the outer tubular constituent. There is no corresponding language suggesting that a muscle tissue elongate be substituted for the bread in the Holbrook disclosure. These patents are directed toward different problems, notwithstanding the "loaf of bread" suggestion within the Haig disclosure..

Claims 26-29 have been rejected under 35 U.S.C. 103 (a) as being unpatentable over Haig, in view of Holbrook, and further in view of applicants admitted prior art. Applicant is unable to ascertain any motivation for a person having ordinary skill in the art of butchery to combine these disclosures in and of themselves, absent applicants disclosure. Additionally applicant firmly believes that the prior art relating to the combination of the top loin with the tenderloin point decidedly toward secondary conditions of patentability as provided by Graham v. John Deer, in that combining the top loin with the tenderloin have been, and continue to be, performed by a variety of complicated, time consuming procedures requiring a great deal of expertise and effort which result in a product having much less visual or dining appeal than that taught by applicants disclosure.

Claims 23 and 25 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Haig, in view of Holbrook and further in view of Giuliano Bugialli's Techniques of Italian Cooking. Again applicant is unable to ascertain any suggested motivation for a person having ordinary skill in the art of butchery to combine these references, absent applicant's disclosure. Again the Bugialli disclosure does not show the raw meat item sliced into steaks. The instructions to slice the roast follow those for cooking it. Upon cooking, the veal tissues become fixed and firm due to the coagulation of the tissue-based proteins as well as the natural constriction due to the cooking. The Bugialli disclosed rolled roast would not provide acceptable steaks when sliced raw, absent binding.

Applicant's disclosure involves the discovery that the tenderloin taken from the short loin of a food animal will fit longitudinally into the respective top loin thereof. Applicant's disclosure solves a centuries-old long felt need toward the art of butchery. "Boned and rolled" short loins may be ordered from butcher shops today, and as described in the background section of applicant's disclosure, these roasts contain the boneless top loin, the boneless tenderloin, the "skirt" wrapper and unavoidably contain a large proportion of gristle and fat. The boned and rolled roast is that which is described in the Bugialli instructions as well as that of the Beverly Cox cooking technique book excerpt. These roasts do not approach the visual appeal of applicants disclosed coaxial roast when cooked and sliced, nor the simplicity of construction, versatility and convenience of use. Applicant requests that Graham considerations be regarded toward the asserted claims.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



William Guess

Applicant



Annotated Sheet Showing Changes

